



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XA642

Fisheries of the Exclusive Economic Zone off Alaska; Application for an Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; Receipt of application for exempted fishing permit.

SUMMARY: This notice announces receipt of an exempted fishing permit (EFP) application from the Alaska Seafood Cooperative (AKSC). If granted, this permit would allow AKSC to evaluate how various fishing and handling practices affect halibut mortality. Operators from up to seven AKSC nonpelagic trawl vessels would remove halibut from a codend on the deck, and release those fish back to the water in a timely manner to increase survivability. These halibut will be sampled for length and physical condition using standard International Pacific Halibut Commission (IPHC) halibut mortality assessment methodology. This activity has the potential to promote the objectives of the Magnuson-Stevens Fishery Conservation and Management Act and the Pacific Halibut Act by assessing techniques for improving survival of halibut caught incidentally in nonpelagic trawl fisheries.

DATES: Comments on this EFP application must be submitted to NMFS by 5 PM A.S.T., December 13, 2011. Comments on the EFP application also will be accepted by

NMFS during the North Pacific Fishery Management Council's (Council's) December 5, 2011 to December 13, 2011 meeting in Anchorage, AK.

ADDRESSES: The Council meeting will be held at the Hilton Hotel, 500 West Third Ave., Anchorage, AK. The agenda for the Council meeting is available at <http://www.fakr.noaa.gov/npfmc/PDFdocuments/meetings/1211agenda.pdf>.

You may submit comments on this document, identified by FDMS Docket Number NOAA-NMFS-2011-0203, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the "submit a comment" icon, then enter FDMS Docket Number NOAA-NMFS-2011-0203, in the keyword search. Locate the document you wish to comment on from the resulting list and click on the "Submit a Comment" icon on that line.
- Mail: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802-1668.
- Fax: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Fax comments to 907-586-7557.
- Hand delivery to the Federal Building: Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Deliver comments to 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the EFP application and the basis for a categorical exclusion under the National Environmental Policy Act are available from the Alaska Region, NMFS website at <http://alaskafisheries.noaa.gov/>.

FOR FURTHER INFORMATION CONTACT: Jeff Hartman, 907-586-7442.

SUPPLEMENTARY INFORMATION: NMFS manages the domestic groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI) under the Fishery Management Plan for Groundfish of the BSAI Management Area (FMP), which the Council prepared under the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing the BSAI groundfish fisheries appear at 50 CFR parts 600 and 679. The FMP and the implementing regulations at § 600.745(b) and § 679.6 allow the NMFS Regional Administrator to authorize, for limited experimental

purposes, fishing that would otherwise be prohibited. Procedures for issuing EFPs are contained in the implementing regulations.

The International Pacific Halibut Commission (IPHC) and NMFS manage fishing for Pacific halibut (Hippoglossus stenolepis) through regulations established under the authority of the Convention between the United States and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (Convention) and the Northern Pacific Halibut Act of 1982 (Halibut Act). The IPHC promulgates regulations pursuant to the Convention. The IPHC's regulations are subject to approval by the Secretary of State with concurrence from the Secretary of Commerce (Secretary).

#### Background

Regulations implemented by the IPHC allow Pacific halibut to be commercially harvested by the directed North Pacific longline fishery. Halibut is a prohibited species in the groundfish fishery, requiring immediate return to the sea with a minimum of injury. Halibut caught incidentally by catcher/processors in the nonpelagic trawl groundfish fisheries must be weighed on a NMFS- approved scale, sampled by observers, and returned to the ocean as soon as possible. The Council establishes annual maximum halibut bycatch allowances and seasonal apportionments adjusted by an estimated halibut discard mortality rate (DMR) for groundfish fisheries. The DMRs are based on the best information available, including information contained in the annual Stock Assessment and Fishery Evaluation report, available at, <http://www.fakr.noaa.gov/>. NMFS approves the halibut DMRs developed and recommended by the IPHC and the Council for the BSAI groundfish fisheries for use in monitoring the halibut bycatch allowances and

seasonal apportionments. The IPHC developed these DMRs for the BSAI groundfish fisheries using the 10-year mean DMRs for those fisheries.

Directed fishing in a groundfish fishery closes when it reaches the halibut mortality apportionment for the fishery, even if the target species catch is less than the seasonal or annual quota for the directed fishery. In the case of the Bering Sea flatfish fishery, seasons have been closed before fishery quotas have been reached to prevent the fishery from reaching the halibut mortality apportionment. Reducing halibut mortality is a high priority management goal for the IPHC, the Council, and NMFS.

Before halibut are returned to the sea, at-sea observers must first estimate halibut and groundfish catch amounts. Regulations in 50 CFR part 679 assure that observer halibut and groundfish estimates are credible and accurate, and that potential bias is minimized. For example, NMFS requires that all catch be made available for sampling by an observer; prohibits tampering with observer samples; prohibits removal of halibut from a cod end, bin, or conveyance system prior to being observed and counted by an at-sea observer; and prohibits fish (including halibut) from remaining on deck unless an observer is present.

With the implementation of Amendment 80 to the FMP on September 14, 2007 (72 FR 52668), halibut mortality limits were established for the Amendment 80 sector and for Amendment 80 cooperatives. Amendment 80 is a catch share program established in 2007 to allocate several BSAI non-pollock trawl groundfish fisheries among fishing sectors, and facilitate the formation of harvesting cooperatives in the non-American Fisheries Act (AFA) trawl catcher/processor sector. Though halibut mortality limit allocations provide Amendment 80 cooperatives more flexibility to use available

mortality, halibut mortality continues to constrain fishing in some Amendment 80 fisheries. The Amendment 80 sector received an initial halibut mortality allocation of 2,525 metric tons (mt) in 2008, but that allocation is reduced by 50 mt per year until it reaches 2,325 mt in 2012 and subsequent years. In certain years, this amount is less than the sector's average annual historic catch. Additionally, changing environmental conditions may alter halibut distributions, causing halibut bycatch rates to increase in some target fisheries. Therefore, this sector is actively exploring ways to continue to reduce halibut mortality.

In 2009, a halibut mortality experiment was conducted by members of the Amendment 80 sector under EFP 09-02 (74 FR 12113, March 23, 2009). Normally, all catch including halibut is moved across a flow scale below deck before the halibut is returned to the sea. Under EFP 09-02, experimental methods for sorting on a vessel's deck allowed for halibut to be quickly returned to the sea. The EFP was applied to fisheries where halibut were sorted on deck from groundfish catch, on vessels with a length overall between 150 to 215 ft. The halibut mortality estimated during flatfish fishing under the EFP 09-02 was approximately 17 mt less than the amount from the DMR for that fishery due to improved condition of the halibut observed during the experiment.

#### Proposed Action

NMFS received an application from the AKSC to conduct a new halibut mortality experiment in 2012. This EFP would expand on results of EFP 09-02 to explore the feasibility of deck sorting halibut in additional fisheries, on different sized vessels, and during a longer interval of time during the fishing season. EFP results would inform the

operational practicality and cost of various fishing and fish handling practices, and their effect on halibut mortality. The EFP would allow researchers onboard catcher/processor vessels to sort halibut removed from a codend on the deck of the vessel. Those sorted halibut could then be released back to the water after the halibut are measured for length and tested for physical condition using standard IPHC viability assessment methods.

The objectives for this EFP are to: (1) evaluate the degree to which changes in fishing and catch handling procedures are operationally feasible and effective in reducing halibut mortality rates on Amendment 80 vessels; (2) evaluate the quality of data collected through sampling halibut sorted on deck for estimating halibut catch, variability in weight, and viability under commercial conditions; (3) inform future changes in vessel design or technological innovations to enable catch handling procedures to reduce halibut mortality; and (4) generate insights into how new deck sorting and halibut catch and viability sampling procedures may be incorporated into the observer and catch accounting systems.

The applicant proposes to begin EFP fishing on April 1, 2012, and end on September 30, 2012. The EFP would allow halibut sorting, sampling, and release prior to weighing on a flow scale, to assess the practicality of reducing halibut mortality. If issued, the permit associated with this EFP application would authorize 75 metric tons (mt) of halibut to be caught by the permitted vessels engaged in experimental fishing. However, the AKSC has agreed to reduce its 2012 halibut allocation by 75 mt, resulting in no additional halibut mortality under this EFP and the Amendment 80 fishery.

The applicant would be required to enter into contract with an independent NMFS-approved reviewer to determine halibut mortality amounts from EFP permitted

vessels. These amounts would reflect actual halibut mortality amounts sampled during the experiment, and accrue against the 75 mt EFP halibut mortality limit. Before the 75 mt halibut mortality limit is reached, the EFP permit holder would notify NMFS and end EFP fishing.

This proposed action would exempt catcher/processors Federal Fisheries Permit number (FFP) 2134 Ocean Peace, FFP 4092 Constellation, FFP 2110 Cape Horn. FFP 2123 Vaerdal, FFP 2800 U.S. Intrepid, FFP 3835 Seafisher, FFP 3694 ARICA from selected 50 CFR 679 prohibitions, monitoring and observer requirements. Should the Regional Administrator issue a permit based on this EFP application, the conditions of the permit will be designed to minimize halibut mortality, and any potential for biasing estimates of groundfish and halibut mortality. The exemptions may include:

1. the prohibition to bias the sampling procedure employed by an observer through sorting of catch before sampling by an observer, at § 679.7(g)(2);
2. the requirements to weigh all catch by an Amendment 80 vessel on a NMFS-approved scale at § 679.27(j)(5)(ii) and § 679.28(b);
3. the requirement for all catch to be made available for sampling by an observer at § 679.93(c)(1); and
4. the requirement for halibut to not be allowed on deck without an observer present at § 679.93(c)(5).

The EFP would require the use of sea samplers for conducting monitoring and data collection activities under the EFP. Sea samplers are NMFS-certified observers that conduct activities under an EFP rather than normal observer activities on an Amendment 80 vessel.



The AKSC would be required to submit a report in 2012 of the EFP results after EFP experimental fishing has ended in 2011, including an estimate of halibut mortality from halibut sampled during the EFP, and halibut mortality under standard IPHC halibut mortality rates for those target fisheries.

AKSC will be required to contract with a third party familiar with NMFS in-season management protocols to track halibut catch amounts, assign a fishery target, calculate what halibut mortality would have been based on NMFS published mortality rates, and calculate actual halibut mortality based on the sampled halibut and calculations described in the EFP application. This third party would be approved by NMFS as part of the permit process after review of that party's experience and knowledge of the Amendment 80 catch accounting system.

The AKSC would be limited to no more than the AKSC's Amendment 80 groundfish allocation. The amount of halibut mortality accrued by the AKSC and under the EFP would not exceed the 75 mt halibut mortality limit. The amount of halibut mortality applied to the EFP activities would be subject to review and approval by NMFS.

This EFP would apply for the period of time required to complete the experiment during 2012, in areas of the BSAI open to directed fishing by the Amendment 80 cooperative. It would be of limited scope and duration and would not be expected to change the nature or duration of the groundfish fishery, gear used, or the amount or species of fish caught by the Amendment 80 cooperative.

The activities that would be conducted under this EFP are not expected to have a significant impact on the human environment as detailed in the categorical exclusion issued for this action (see ADDRESSES).

In accordance with § 679.6, NMFS has determined that the proposal warrants further consideration and has forwarded the application to the Council to initiate consultation. The Council is scheduled to consider the EFP application during its December 2011 meeting, which will be held at the Hilton Hotel, Anchorage, Alaska. The applicant has been invited to appear in support of the application.

#### Public Comments

Interested persons may comment on the application at the December 2011 Council meeting during public testimony. Information regarding the meeting is available at the Council's website at <http://alaskafisheries.noaa.gov/npfmc/council.htm>. Copies of the application and categorical exclusion are available for review from NMFS (see ADDRESSES). Comments also may be submitted directly to NMFS (see ADDRESSES) by the end of the comment period (see DATES).

Authority: 16 U.S.C. 1801 et seq.

Dated: November 9, 2011.

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Steven Thur, Acting Director,

Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2011-29611 Filed 11/15/2011 at 8:45 am; Publication Date: 11/16/2011]